

(a) Be deemed the insurer to the extent of its obligation on the covered claims. The claims found by the board of directors to be covered shall be paid out of available funds after they have been approved or settled under sections 60B.45, subdivision 2, and 60B.58, subdivision 2, or the corresponding laws of another jurisdiction, subject to the board's power to reduce the amount of or reject the award under section 60C.10.

(b) Allocate claims paid and expenses incurred among the four accounts and assess member insurers separately for each account the amounts necessary to pay the obligations of the association under clause (a), the expenses of handling covered claims, the cost of examinations under section 60C.15 and other expenses authorized by Laws 1971, Chapter 145.

(c) Notify the persons as the commissioner directs under Laws 1971, Chapter 145.

(d) Handle claims through its employees or through one or more insurers or other persons designated as servicing facilities. Designation of a servicing facility is subject to the approval of the commissioner, but the designation may be declined.

(e) Reimburse each servicing facility for obligations of the association paid by the facility and for expenses incurred by the facility while handling claims on behalf of the association and shall pay the other expenses of the association authorized by Laws 1971, Chapter 145.

(f) Notify each member insurer of its assessment not later than 30 days before it is due.

(g) Issue to each insurer paying an assessment under this chapter a certificate of contribution, in a form prescribed by the commissioner, for the amount so paid. All outstanding certificates shall be of equal dignity and priority without reference to amounts or dates of issue. A certificate of contribution may be shown by the insurer in its financial statement as an asset in the form and for the amount, if any, and period of time the commissioner approves.

Approved May 29, 1985

CHAPTER 256 — H.F.No. 957

An act relating to agriculture; providing that local governments may enter agreements; providing for soil and water conservation; imposing a penalty; amending Minnesota Statutes 1984, sections 40.19, subdivisions 1, 2, 5, 6, 7, 8, 9, 11, 13, and by adding subdivisions; 40.20; 40.21; 40.22, subdivisions 1 and 2; 40.23; 40.25; 40.26; 40.28; Laws 1979, chapter 315, sections 1; and 2, as amended; proposing coding for new law in Minnesota Statutes, chapter 40; repealing Minnesota Statutes 1984, sections 40.19, subdivisions 3, 4, 10, 12, 14, and 15; and 40.24.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1984, section 40.19, subdivision 1, is amended to read:

Subdivision 1. **SCOPE APPLICABILITY.** For the purposes of sections 40.20 to 40.28, the terms defined in this section have the meanings given them. The definitions in this section apply to sections 1 to 22 and sections 40.19 to 40.28.

Sec. 2. Minnesota Statutes 1984, section 40.19, subdivision 2, is amended to read:

Subd. 2. 7a. EXCESSIVE SOIL LOSS. "Excessive soil loss" means soil loss resulting from erosion that is more rapid than the gradual erosion of land used by man when all reasonable soil and water conservation practices have been applied that is greater than the soil loss limits. "Excessive soil loss" may be evidenced by sedimentation on adjoining land or in any a body of water. Soil loss is excessive if it is greater than the soil loss tolerance for each soil type described in the United States Soil Conservation Service Field Office technical guide.

Sec. 3. Minnesota Statutes 1984, section 40.19, is amended by adding a subdivision to read:

Subd. 2a. CONSERVATION PLAN. "Conservation plan" means a set of practices that will decrease soil erosion to the soil loss limits on a particular parcel of land.

Sec. 4. Minnesota Statutes 1984, section 40.19, subdivision 5, is amended to read:

Subd. 5. **CONSERVATION PRACTICES, STANDARDS AND SPECIFICATIONS.** "Conservation practices, standards and specifications" means practices and standards containing a definition, purpose, and conditions under which that the practice applies including design requirements, and specifications containing a statement of details required for installing a conservation practice, including kinds, quality, and quantity of work and materials needed to meet the standards. A conservation practice may be a permanent or temporary, vegetative or structural, measure that will aid the control of wind and water erosion. Permanent practices are those that have effective life greater than ten years and include grassed waterways, terraces, field windbreaks, water control structures, grade stabilization structures, sediment retention structures, strip-cropping, and other permanent practices approved by the state soil and water conservation board. Temporary practices include conservation tillage, contour farming, grasses and legumes in rotation, emergency tillage, and any other cultural practices approved by the state soil and water conservation board.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Sec. 5. Minnesota Statutes 1984, section 40.19, subdivision 6, is amended to read:

Subd. 6. **DEVELOPMENT ACTIVITY.** "Development activity" means any a physical disturbance by man of the land associated with development activities which, that may result in sedimentation of adjacent lands or waters. These, associated with activities that include, but are not limited to, clearing, grading, excavating, transporting, and filling lands. Road construction by federal, state, county, and municipal road construction governments designed according to department of transportation standard specifications for construction are exempt from this act not development activities.

Sec. 6. Minnesota Statutes 1984, section 40.19, subdivision 7, is amended to read:

Subd. 7. **EROSION.** "Erosion" means the any process by which that removes soil away from the surface of the land is worn away by the action of water, wind, or gravity.

Sec. 7. Minnesota Statutes 1984, section 40.19, subdivision 8, is amended to read:

Subd. 8. **9a. GOVERNING BODY LOCAL GOVERNMENT.** "Governing body" "Local government" means the elected governing body of a county, home rule charter or statutory city, or town, or their designated officials or agents. Agents may include soil and water conservation districts, water management organizations, joint powers boards, watershed districts, or and other governmental entities responsible for resource management within the affected local government's jurisdiction.

Sec. 8. Minnesota Statutes 1984, section 40.19, subdivision 9, is amended to read:

Subd. 9. **LAND OCCUPIER.** "Land occupier" means a person, firm, corporation, municipality, or other legal entity who that holds title to, or is in possession of any lands, whether as owner, lessee, renter, tenant, or otherwise. The term "Land occupier" includes both the owner and the occupier of the land when if they are not the same.

Sec. 9. Minnesota Statutes 1984, section 40.19, subdivision 11, is amended to read:

Subd. 11. **SEDIMENT.** "Sediment" means solid mineral or organic material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin original location by air, water, gravity, or ice, and has come to rest on the earth's surface been deposited at another location.

Changes or additions are indicated by underline, deletions by strikeout.

Sec. 10. Minnesota Statutes 1984, section 40.19, is amended by adding a subdivision to read:

Subd. 11a. SOIL. "Soil" means the unconsolidated mineral and organic material on the immediate surface of the earth that serves as natural medium for the growth of land plants.

Sec. 11. Minnesota Statutes 1984, section 40.19, subdivision 13, is amended to read:

Subd. 13. SOIL LOSS LIMIT. "Soil loss limit" means the maximum amount of soil loss from water or wind erosion, expressed in tons per acre per year, that will be permitted is allowed by local regulations on a given particular soil.

Sec. 12. Minnesota Statutes 1984, section 40.20, is amended to read:

40.20 SOIL LOSS CONTROL ORDINANCES.

Each statutory or home rule charter city, town, or county that has planning and zoning authority under sections 366.10 to 366.19, 394.21 to 394.37, or 462.351 to 462.365 is encouraged to adopt a soil loss ordinance as provided in section 40.21. The soil loss ordinance must use the soil loss tolerance for each soil series described in the United States Soil Conservation Service Field Office Technical Guide to determine the soil loss limits but the soil loss limits must be attainable by the best practicable soil conservation practice. A local government that adopts a soil loss ordinance may enter an agreement with its agent allowing the agent to administer the functions and perform the duties of the local government as provided by sections 12 to 22. Ordinances adopted by local units governments within the metropolitan area defined in section 473.121 must be consistent with local water management plans adopted under section 473.879.

Sec. 13. Minnesota Statutes 1984, section 40.21, is amended to read:

40.21 PROMULGATION OF RULES BY THE COMMISSIONER OF AGRICULTURE; PERIODIC REVIEW, MODEL ORDINANCE, AND PERIODIC REVIEW.

Subdivision 1. RULES AND MODEL ORDINANCE AS GUIDE. The commissioner of agriculture, in consultation with counties, soil and water conservation districts, and other appropriate agencies, shall ~~promulgate~~ adopt a model ordinance and rules which shall that serve as a guide to enable for local governments to carry out the provisions of ~~Laws 1984, chapter 569.~~ The rules developed by the commissioner of agriculture shall include: sections 12 to 22 and sections 40.20 to 40.26, and provide administrative procedures for the state soil and water conservation board for sections 12 to 21 and sections 40.20 to 40.26.

Subd. 2. MODEL ORDINANCE. (a) ~~A~~ The model ordinance which specifies must specify the technical and administrative procedures required to

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implement Laws 1984, chapter 569 control soil loss and erosion. The model ordinance ~~shall be considered to be~~ is the minimum regulation to be adopted. The model ordinance must use the soil loss tolerance for each soil series described in the United States Soil Conservation Service Field Office Technical Guide to determine soil loss limits, but the soil loss limits must be attainable by the best practicable soil conservation practice.

(b) Administrative procedures required of the state soil and water conservation board for carrying out the provisions of Laws 1984, chapter 569.

Subd. 3. PERIODIC REVIEW. At least once every two five years the commissioner of agriculture shall review the rules and model ordinance in cooperation with counties, soil and water conservation districts, and appropriate agencies to ensure their continued applicability and relevance. ~~The rules may be revised if deemed necessary by the commissioner of agriculture.~~

Sec. 14. Minnesota Statutes 1984, section 40.22, subdivision 1, is amended to read:

Subdivision 1. **PROHIBITED ACTIVITIES.** A person may not cause, conduct, contract for, or authorize an activity ~~which~~ that causes excessive soil loss.

Sec. 15. Minnesota Statutes 1984, section 40.22, subdivision 2, is amended to read:

Subd. 2. **AGRICULTURAL LAND.** A land occupier of agricultural land is not violating subdivision 1 if ~~he~~ the occupier is using farming by methods which do not create excessive soil loss that implement the best practicable conservation practices.

Sec. 16. Minnesota Statutes 1984, section 40.23, is amended to read:

Subdivision 1. **COMPLAINT.** A land occupier adversely affected by the effects of excessive soil loss, or an elected local government official, may submit a verbal or written complaint against a land occupier alleging that excessive soil loss has occurred or is occurring. The complaint must be made to the governing body of the local government unit that has adopted an ordinance as provided in section 40.21. If the complaint is verbal, it must be followed by a written complaint within 72 hours. The complaint shall include the approximate dates and location of the alleged violation and describe the source, nature, and extent of the excessive soil loss alleged to have occurred or which is occurring. The complaint must be made to the governing body of the local government unit that has adopted a soil loss ordinance as provided in section 40.21. (a) An adversely affected landowner, an elected or appointed official of the local government, or a soil and water conservation district board member may submit a written complaint to the local government if conditions exist that indicate there is excessive

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soil loss from a tract of land that affects another tract of land or body of water. The written complaint must contain:

- (1) the name and address of the landowner;
- (2) the location of the tract of land with the excessive soil loss;
- (3) land or water that is affected by the excessive soil loss; and
- (4) a description of the nature of the excessive soil loss and resulting sedimentation.

(b) The local government shall submit the complaint to the soil and water conservation district for soil loss determination.

Subd. 2. DISTRICT DETERMINATION OF SOIL LOSS. (a) The soil and water conservation district shall determine the average soil loss in tons per acre per year of the tract of land cited in the complaint.

(b) The soil and water conservation district may enter public or private land to make an inspection for the determination of soil loss or to complete the report. The landowners must be notified of the time of the inspections and be given an opportunity to be present when the inspection is made.

(c) The soil and water conservation district shall submit a report to the local government that states the average soil loss in tons per acre per year for each tract of land and whether the soil loss is excessive under the applicable soil loss limits. If the soil loss is excessive the report must include identification of existing management practices and a conservation plan and time schedule that will prevent excessive soil loss or reduce the soil loss to the most practicable extent.

Subd. 3. MEDIATION. (a) If the soil and water conservation district report shows that soil loss from the tract of land is excessive and alternative practices are available to reduce the soil loss, the local government shall request the allegedly offending landowner to participate in mediation with the local government.

(b) The local government may appoint the planning and zoning director, a planning commissioner, or other county official to act as a mediator. The local government may also contract with a mediation center to provide mediation services.

(c) The landowner, and the local government or its agent must attempt to agree on conservation practices and times to implement the practice that will reduce soil loss to the local soil loss limits.

(d) A mediated settlement must be in writing, and filed with the local government.

Changes or additions are indicated by underline, deletions by strikeout.

(e) If the local government and the landowner do not agree to a mediated settlement, or if the landowner refuses to participate in mediation, the local government shall forward the complaint to the county attorney. The county attorney may dismiss the complaint or petition for a hearing under section 17.

Subd. 4. APPLICATION FOR COST-SHARING FUNDS. The landowner has 90 days after a mediated settlement is filed to apply for state cost-sharing funds that will provide 75 percent of the cost of the permanent conservation practices. Only 50 percent cost share will be provided if the application is not made within 90 days after the settlement is filed. The landowner must apply for 50 percent cost share within 270 days after the mediated settlement is filed.

Subd. 5. PENALTY. A landowner that does not comply with the provisions of the mediated settlement is subject to a civil penalty up to \$500. Soil conservation practices that are made in good faith and substantial compliance are a complete defense.

Sec. 17. [40.242] DISTRICT COURT HEARING.

Subdivision 1. DETERMINATION OF PROPER CONSERVATION PLAN. If the landowner and the local government do not agree to a mediated settlement or if the landowner has refused mediation, the county attorney may petition the district court for a hearing. The landowner shall have the opportunity to present the landowner's conservation plan and time schedule as an alternative to the local government conservation plan and time schedule. The court shall order the landowner to implement the conservation plan and time schedule that is the least burdensome to the landowner and will reduce soil loss to at least the soil loss limit. The court may amend the local government's or landowner's conservation plan and time schedule, or develop a new conservation plan and time schedule. The court shall set times to implement, make satisfactory progress, and complete the conservation plan.

Subd. 2. COST-SHARING FUNDS. (a) If the court orders implementation of the landowner's conservation plan and time schedule, or amends the conservation plan and time schedule, or if the court develops a new conservation plan and time schedule, the landowner is eligible to apply for 75 percent cost-share funds for permanent conservation practices. The landowner must apply for the cost share within 90 days after the court order. If the landowner does not apply within 90 days for the cost-sharing funds the cost share is reduced to 50 percent. The court shall establish a time when the landowner is not eligible for cost-sharing funds if an application is not made.

(b) If the court orders a plan and time schedule developed by the district in its report, the landowner is eligible for 50 percent cost share if the landowner applies within 90 days after the court order.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Sec. 18. [40.244] SOIL AND WATER CONSERVATION ASSISTANCE.

A landowner who has filed a mediated settlement under section 16 or who has received a court order under section 17 may request the soil and water conservation district to assist in the planning, design, and application of practices necessary to reduce soil loss to the applicable soil loss limit amounts or to the greatest practical extent. The soil and water conservation district must give the landowner a high priority for technical and cost-sharing assistance.

Sec. 19. [40.246] ATTORNEY AND LOCAL GOVERNMENT MAY PERFORM DUTY OF COUNTY.

The city attorney or town attorney may perform the duties of a county attorney. A city or town may perform the duties of a local government only if the city or town adopts a soil loss ordinance and the land in the complaint is located within the city or town.

Sec. 20. Minnesota Statutes 1984, section 40.25, is amended to read:

40.25 EROSION CONTROL PLAN FOR DEVELOPMENT ACTIVITIES.

Subdivision 1. SEDIMENTATION CONTROL PLAN. (a) A person engaged in a development activity that will disturb over one acre of land must submit to the governing body a sedimentation control plan and time schedule that will prevent excessive soil loss to the local government having jurisdiction over the land before the development activity is to begin.

(b) A sedimentation control plan and time schedule must specify how the movement of soil and damage to other property during the construction will be minimized, including the use of temporary seeding, fiber mats, plastic, straw, mulch, sediment control basins, and other measures to prevent erosion and sediment damage. The time schedule must establish deadlines for the implementation and completion of each phase or element of the sedimentation control plan.

Subd. 2. PERMIT REQUIRED. The local government may appoint the zoning and planning director, building inspector, county engineer, or the soil and water conservation district to review the plan and time schedule. If the sedimentation control plan and time schedule will prevent excessive soil loss to the most practicable extent, the local government must issue a permit that authorizes the development activity contingent upon the implementation and completion of the sedimentation control plan.

Subd. 3. PENALTY. A person engaged in a development activity who does not obtain a sedimentation control plan permit or does not commence or complete the plan or make satisfactory progress to complete the plan is subject to a civil penalty. Soil conservation practices made in good faith and substantial compliance are a defense.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subd. 4. APPLICATION. For counties, the provisions of this section apply only to county jurisdiction over unincorporated areas.

Sec. 21. Minnesota Statutes 1984, section 40.26, is amended to read:

40.26 APPLICATION FOR COST-SHARING FUNDS.

(a) Except in the case of for a development activity, a land occupier may not be required to establish soil conservation practices unless state cost-sharing funds have been specifically approved for that land and have been made available to the land occupier in an amount under sections 16 and 17, equal to at least 75 percent of the cost of the permanent conservation practices on a voluntary basis, and or a 50 percent cost share if implementation is not commenced following the issuance of an administrative order as provided in this section. The state soil and water conservation board shall review these requirements at least once each year, and may authorize districts in any particular case to provide a higher percentage of public cost sharing than is required by this section. To aid in this determination, the state board may consider the location of the affected area in relation to the priority areas as established in the district annual and long-range plans. Evidence that an application for state cost-sharing funds has been submitted to the soil and water conservation district shall constitute commencement of the work within the meaning of section 40.24. When notified of the approval of the application, the local unit shall issue to the same parties who received the original administrative order, or their successors in interest, a supplemental order, to be delivered in the same manner as provided by section 40.24. The supplemental order shall state a time, not more than 90 days after approval of the application for state cost-sharing funds, by which the work needed to comply with the original administrative order shall actually be commenced, and a time not more than one year thereafter when the work is to be satisfactorily completed an application for cost share is not made within 90 days after the board approves a mediated written agreement or within 90 days after the court orders implementation of a plan and time schedule prepared by the landowner or the court. For mediated settlements, a court order that implements the landowner's alternatives or the court's alternatives must state the time schedule for application for 50 percent cost share. If the court orders implementation of the district's plan and time schedule, a landowner is only eligible for 50 percent cost share.

(b) The state soil and water conservation board shall review these requirements at least once each year, and may authorize a district to provide a higher percentage of cost sharing than is required by this section. To aid in this determination, the state board may consider the location of the affected area in relation to the priority areas as established in the soil and water conservation district annual and long-range plans.

Sec. 22. Minnesota Statutes 1984, section 40.28, is amended to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

40.28 PENALTY.

A violation of an administrative order issued under section 40.24 or a supplemental order issued under section 40.26 is a misdemeanor. A person who violates section 14 is subject to a civil penalty up to \$500.

Sec. 23. Laws 1979, chapter 315, section 1, is amended to read:

Section 1. **PURPOSES; OBJECTIVES.** The legislature hereby declares it to be the policy of the state to assure that Minnesota lands that are well suited for the production of agricultural products be used and managed primarily for that purpose by:

- (a) Maintaining optimum agricultural production;
- (b) Permanently preserving certain parcels of prime agricultural and open space land from conversion to other uses;
- (c) Attempting to guide growth and development to utilize land, resources, and capital most effectively; and
- (d) Providing relief from escalating property taxes and special assessments in agricultural areas subject to development pressures; and
- (e) Preventing excessive soil and water erosion.

The legislature further finds that the public purposes to be served by this policy will be best met by:

- (a) Defining and locating lands well suited for the production of agricultural products;
- (b) Assuring that state agencies conduct their activities in a manner that considers and seeks to minimize negative impacts on agricultural activities, in accordance with other social, economic and environmental considerations;
- (c) Assuring that public agencies employ and promote the use of management procedures which maintain or enhance the natural productivity of lands well suited to the production of agricultural products; and
- (d) Providing units of local government with tools and incentives to prevent the unplanned and unscheduled conversion of agricultural and open space lands to other uses; and
- (e) Providing state agencies and units of local government with adequate support to prevent excessive soil erosions through soil and water conservation.

Sec. 24. Laws 1979, chapter 315, section 2, as amended by Laws 1981, chapter 78, section 1; Laws 1982, chapter 512, section 10; and Laws 1984, chapter 569, section 12, is amended to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Sec. 2. JOINT LEGISLATIVE COMMITTEE.

A joint legislative committee on agricultural land preservation and soil and water conservation shall be established by July 1, 1979, and shall expire by June 30, 1994, unless extended by legislative action. The committee shall be composed of eight members of the house of representatives from the transportation, agriculture, environment and natural resources, local and urban affairs, and tax committees appointed by the speaker and the chairman of the committee on rules and legislative administration; and eight members of the senate from the transportation, agriculture and natural resources, local government, tax, and governmental operations committees appointed by the subcommittee on committees. The committee shall elect a chairman from among its members. The expenses of and per diem payments to committee members shall be paid from the legislative expense fund of their respective body upon approval of the chairman of the joint committee. Other expenses of the committee shall be evenly divided between the house of representatives and the senate.

Sec. 25. REPEALER.

Minnesota Statutes 1984, sections 40.19, subdivisions 3, 4, 10, 12, 14, and 15, and section 40.24 are repealed.

Sec. 26. EFFECTIVE DATE.

This act is effective July 1, 1985.

Approved May 29, 1985

CHAPTER 257 — S.F.No. 647

An act relating to education; Minnesota Educational Computing Corporation; removing some limits on its powers; providing for compliance with certain bidding laws for management computing services; limiting the salary of the chief officer; amending Minnesota Statutes 1984, sections 119.04, subdivision 2; 119.05, subdivision 2; and 119.07.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1984, section 119.04, subdivision 2, is amended to read:

Subd. 2. **POWERS.** The board of directors has the authority to engage in all activities which carry out the public purpose expressed in section 119.01 and which are consistent with sections 119.01 to 119.09. This authority includes but is not limited to acquiring, leasing, and disposing of real and personal property, establishing banking relationships, borrowing funds, establishing policies relating to personnel and compensation of personnel, and purchasing insurance. The board of directors may form wholly-owned subsidiaries. A subsidiary

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